

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID LITMON, JR.,

No. C-10-3894 EMC

Plaintiff,

v.

**ORDER GRANTING PLAINTIFF'S
REQUEST FOR CLARIFICATION**

EDMUND G. BROWN, Attorney General of
California,

(Docket No. 34)

Defendants.

Plaintiff has moved the Court for a clarification regarding its order of April 29, 2011. In that order, the Court set aside the judgment and reopened the case to give Plaintiff an opportunity to file an amended complaint containing an equal protection claim. *See* Docket No. 31 (order). The Court hereby **GRANTS** the request for clarification.

Plaintiff has leave to file a first amended complaint. More specifically, Plaintiff has leave to assert the equal protection claim denominated as "Claim Two" in his *proposed* first amended complaint, which was filed on March 16, 2011. *See* Docket No. 22 (proposed first amended complaint, attached to motion for leave to file first amended complaint). That claim must be directed to Defendant Brown and not Defendant Harris. *See* Docket No. 29 (Order at 1-2) (noting that "Plaintiff clarified in his reply that said claim is directed solely against Defendant Brown"). Plaintiff does *not* have permission to reassert in his first amended complaint the due process and double jeopardy claims already ruled upon (referred to as the first and third claims in the proposed first amended complaint).

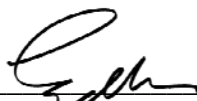
1 The Court understands that Plaintiff wishes to appeal the dismissal of the due process and
2 double jeopardy claims. Plaintiff may do so, if he wishes, after a final judgment is entered in this
3 case. A final judgment will be entered in this case after the equal protection claim is resolved (that
4 is, assuming Plaintiff does file a first amended complaint asserting an equal protection claim).

5 As a final point, the Court notes that, in its order of April 29, 2011, it instructed Plaintiff to
6 file his first amended complaint by May 29, 2011. Given that this date is fast approaching, and
7 Plaintiff has apparently been under some confusion, the Court shall give Plaintiff additional time to
8 file his first amended complaint. Plaintiff shall have until **June 24, 2011**, to file a first amended
9 complaint containing the equal protection claim referenced above. Defendant shall have until **July**
10 **25, 2011**, to file a response.

11 The case management conference set for July 13, 2011 is rescheduled for September 2, 2011
12 at 9:00 a.m. A joint case management conference statement shall be filed by August 26, 2011.

13 IT IS SO ORDERED.

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15 Dated: May 25, 2011

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17 EDWARD M. CHEN
18 United States Magistrate Judge
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID LITMON, JR.,

No. C-10-3894 EMC

Plaintiffs

v.

CERTIFICATE OF SERVICE

EDMUND G. BROWN, Attorney General of
California,

Defendants.

_____ /


I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

DAVID LITMON, JR.
29083 Mission Boulevard, Apt. 207
Hayward, CA 94544

Dated: May 25, 2011

RICHARD W. WIEKING, CLERK

By: _____


Betty Lee
Deputy Clerk